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August 7, 2013

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: *In the Matter of Accessibility of User Interfaces, and Video Programming Guides and Menus*, MB Docket No. 12-108, Notice of Proposed Rulemaking (FCC 13-77)

Dear Commissioners:

The City of Boston, Massachusetts, submits this letter in the above-referenced proceeding to urge the Commission to require that video-programming guides include, for all channels, high-level channel and program descriptions and titles, and a symbol identifying the program's accessibility options (captioning and video description). The City's cable operators currently omit this vital information for the City's PEG channels—leaving the channels less accessible to those with disabilities.

The City has a local origination channel and four PEG channels that provide valuable programming to the community:

- ***Boston Neighborhood Network*** consists of two channels: “**News and Information**” (Comcast 9, RCN 15) and “**Community TV**” (Comcast 23, RCN 83). Boston Neighborhood Network Television is a nationally recognized, award-winning community media center and 501(c)(3) nonprofit, that acts as a public forum for all Boston residents, nonprofit and community-based organizations, and governmental and educational institutions and provides them with affordable training and access to emerging media technologies. Information about the channels is available here: <http://www.bnntv.org/>
- ***Boston City TV*** covers city news, announcements, and notices, as well as public affairs and educational programming on Comcast's Channel 24 and RCN's Channel 15. It delivers government-access programming in a “City-Span” format. The channel also features Boston Public Schools Television, or BPS-TV, features educational programming via the Annenberg Foundation/CPB and live broadcast of Boston School Committee hearings. Information about the channel is available here: <http://www.cityofboston.gov/cable/live.asp>
- ***Boston Kids & Family TV*** is a City of Boston partnership with WGBH-Boston featuring children & family programming from WGBH 24/7 on Comcast's Channel 22 & RCN's

Channel 3. Information about the channel is available here: http://www.cityofboston.gov/cable/BKF_tv.asp

The City seeks to ensure that the channels' programming is accessible to all subscribers in the community—including to those with disabilities. Programming on the Boston Kids & Family TV channel is already closed captioned, and the City is now implementing closed captioning on the other PEG channels.

Yet today, a person with a disability who relies on Comcast's or RCN's program guides cannot determine whether a PEG-channel program is closed captioned or has other accessibility features. This is true even though the City provides Comcast and RCN with programming descriptions for each program *daily*—and even though the City has repeatedly asked the operators to carry program-specific data. The operators simply refuse. The result is a guide that provides little or no meaningful information to assist these subscribers.



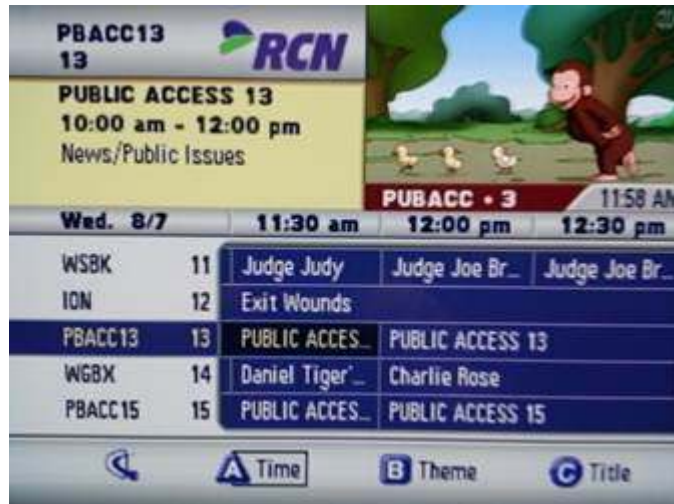
For each PEG channel, Comcast's Xfinity's program guide shows:

- **Boston Kids & Family TV (22):** A station identification, but no programming or accessibility information.
- **Boston Neighborhood Network (BNN-TV Ch. 9 and 23):** No station identification; no programming or accessibility information
- **Boston City TV (24):** No station identification; no programming or accessibility information

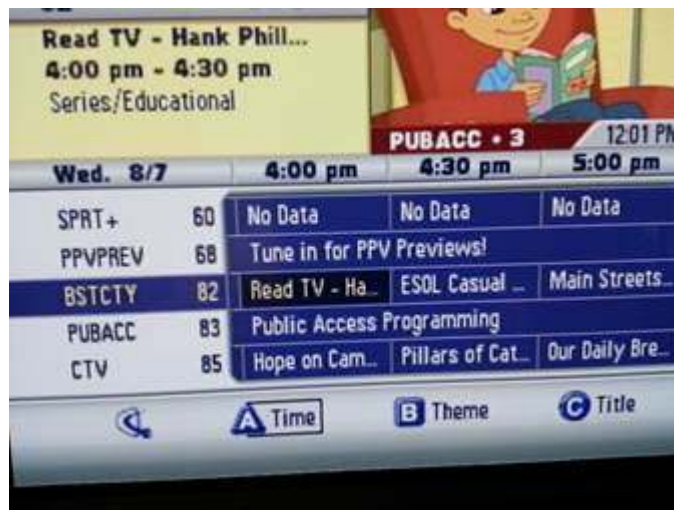


RCN's program guide shows:

- **Boston Kids & Family TV (3):** No station identification; no programming or accessibility information.



- **Boston City TV (13):** No station identification; no programming or accessibility information.



- RCN actually does carry information about Boston City TV—but in the **wrong location**. At Channel 82 (RCN's local origination channel), RCN shows a station identification for Boston City TV (which is actually channel 13) and programming information for Boston Kids and Family TV. RCN does not provide any accessibility information.
- The City has informed RCN of this error, but the operator has not corrected it.

Comcast's and RCN's current efforts are unacceptable; they do not satisfy the accessibility goals of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). Viewers cannot determine from the programming guide what our programs are and whether our programs are accessible. Thus, viewers with visual or auditory disabilities cannot make meaningful video-program choices.

The Video Programming Accessibility Advisory Committee (VPAAC) identified "Channel/Program Selection" and "Display Channel/Program Information" among the essential functions covered by CVAA,¹ and also expressed concern that "[o]ften it is impossible to determine the accessibility of a program (whether it provides captioning or video description) until after watching a set of previews and/or advertisements. This can lead to frustration on the

¹ *Second Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010: User Interfaces, and Video Programming Guides and Menus* (April 9, 2012) ("Report") at 8.

part of users dependent on such capabilities as they attempt to locate programming that meets their accessibility needs.”² The VPAAC identified that “[a] more accessible and usable solution for deaf or hard of hearing and blind or vision impaired users would provide clear identification of the accessibility options that are available for a program *prior to viewing, such as labeling the program as having captions and/or video description within the mechanism used to display channel / program information.*”³ We urge the Commission to adopt this approach and note that it is even more difficult to locate programming that meets viewers’ accessibility needs if the guide omits both a closed-captioning label and the program’s title.

The Commission has direct authority under the CVAA to require cable operators to include on their programming guides high-level channel and program descriptions or titles, as well as a symbol identifying the programs with accessibility options (captioning and video description). By enacting the CVAA, Congress has already decided that user interfaces and video programming guides and menus are essential to making video services accessible and it has given the Commission direct responsibility to make them accessible. At a minimum this authority allows the Commission to require that MVPDs provide programming description information in programming guides for local programs and channels with accessibility options. However, we also believe that the Commission has authority, or could exercise ancillary authority, to require that MVPDs include programming description information in programming guides for all local programs and channels because the Commission is authorized to make essential functions such as “Channel/Program Selection” and “Display Channel/Program Information” accessible, and to make this accessibility meaningful, the program guides should include a minimum level of program and channel information.

More than a dozen years ago, when the Commission adopted rules to implement Section 255 of the Communications Act, 47 U.S.C. § 255, to make telecommunications services accessible, the Commission also exercised its ancillary authority to include within the accessibility requirements two non-telecommunications services – voicemail and interactive menus.⁴ Having been charged by Congress to ensure that telecommunications services and equipment are accessible and usable by persons with disabilities, the Commission could not “carry out meaningfully the accessibility requirements”⁵ or “fully achieve that objective without this limited use of [its] ancillary jurisdiction.”⁶ Similarly, we believe that the Commission cannot carry out meaningfully the accessibility requirements of the CVAA – to make user interfaces and video programming menus on digital video programming apparatus, and menus and video programming guides provided by navigation devices accessible to people who are blind or visually impaired – or fully achieve that objective without this limited use of the Commission’s ancillary jurisdiction to require that MVPDs provide programming description information in programming guides for local programs and channels for the purpose of promoting accessibility.

² Report at 18.

³ *Id.* (emphasis added).

⁴ See 47 C.F.R. Part 7.

⁵ *Id.*

⁶ *Id.*

Therefore, we urge the Commission to adopt rules that would require video programming guides and menus which display channel and program information include, for all channels, high level channel and program descriptions and titles, as well as a symbol identifying the programs with accessibility options (captioning and video description).

Thank you for the opportunity to submit these comments.

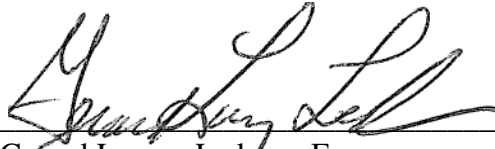
Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Gerard Lavery Lederer", is written over a horizontal line.

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